IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
JAIPUR BENCH
S.B. Civil Writ Petition No.7073/06
Padam Chand Jain Vs. Civil Judge (JD) & Ors.

16.04.2007

Hon'ble Mr. Justice Mohammad Rafiq

Shri S.K. Gupta for petitioner.

Heard learned counsel for the petitioner.

Shri S.K. Gupta, the learned counsel for the petitioner has argued that the disputed plot with regard to which the original suit was filed by his uncle Kapoor Chand was in fact alloted in the name of petitioner by Municipal Board, Gangapur City, Distt., Sawaimadhopur. He has in this connection cited, the copy of the letter of possession dated 6.10.79. He submitted that in spite of the fact that the application of the petitioner for substituting Shri Kapoor Chand as plaintiff in the civil suit

was there before the learned trial court, yet the learned trial court permitted the original plaintiff Kapoor Chand to withdraw the suit and rejected the application of the petitioner to be impleaded as plaintiff in his place. It was argued that the said Kapoor Chand compromised the Civil Suit with the Muncipality taking advantage of the fact that petitioner was not residing at Gangapur City. His uncle Kapoor Chand was in collusion with the authorities of the Municipal Board, Gangapur City and arrived at a clandestine understanding with them.

Having heard the learned counsel for the petitioner and perused the impugned order, I find that the learned trial court has observed that the suit was pending for settlement / compromise between the parties since 16.9.2003 and thereafter it was

deferred for awaiting such compromise on different dates. The application for impleadment of the petitioner as plaintiff filed as late as on 4.4.2006 was filed clearly after 12 years of the filing of the suit. The learned trial court found that if the petitioner feels that withdrawal of the suit might adversely affect his interest, the appropriate course for the petitioner would be to file a fresh suit for protection of his interest instead of getting himself impleaded as plaintiff in that suit. In the circumstances, the learned trial court allowed the original plaintiff to withdraw the suit.

On careful study of the impugned order, I do not find that the order passed by the trial court suffer from any such material irregularity or illegality as may be described as error apparent on the face

of the record so as to justify interference by this Court. If the petitioner feels that the land in dispute was allotted to him by the Municipal Board and his uncle had arrived at some understanding with the authorities of the Municipal Board which adversely affects his interest, the petitioner would be free to file a separate suit for protection of his rights. The withdrawal of the present suit would not in any way affect his interest. I therefore do not entertain this writ petition.

The writ petition is accordingly dismissed.

(Mohammad Rafiq),J.

Rs/-